

Memorandum

TO: Sen. Andy Wells and Rep. Sarah Stevens—Co-Chair and Vice-Chair of the Joint Legislative Administrative Procedure Oversight Committee

FROM: Al Benshoff (General Counsel for the Town of Oakboro) and Brady Herman

DATE: October 16, 2019

RE: Response to the Requirements set forth in Section 3 of Session Law 2019-198 (Senate Bill 584) for the Town of Oakboro, N.C.

Attached is the response of the Town of Oakboro, North Carolina to the requirements set forth in Section 3 of Session Law 2019-198. The attached document contains a list of all Oakboro's ordinances that create criminal offenses pursuant to G.S. 14-4(a), with brief descriptions of the prohibited conduct.

If you have any questions about this Memorandum, please contact either Al Benshoff by email at Benshoff@broughlawfirm.com, or Brady Herman at bherman@broughlawfirm.com, at The Brough Law Firm, tel: (919)-929-3905. Also, please acknowledge receipt of this Memorandum and its sufficiency in complying with Session Law 2019-198.

TITLE III: ADMINISTRATION

Chapter 34: Historic District; Commission

Sec. 34.01(M)—General Provisions; Certificate of Appropriateness Required: Prohibits altering, restoring, erecting, or moving any exterior architectural features of any building or structure within the district unless a certificate of appropriateness is issued by the Historic Preservation Commission, or under special circumstances, its staff person.

Sec. 34.01(W)—General Provisions; Certain Changes not Prohibited: The following shall not be construed to prevent, nor subject to the ordinances of this chapter: (1) ordinary maintenance or repair of any exterior architectural feature of a historic landmark or in a historic district which does not involve a change in design, materials or outer appearance thereof; (2) construction, reconstruction, alteration, restoration or demolition of any feature which the Building Inspector certifies is required for the public safety due to an unsafe or dangerous condition; (3) a property owner from making any use of his or her property not prohibited by other statutes, ordinances or regulations; and (4) the maintenance, or in the event of an emergency, the immediate restoration of any existing above ground utility structure without approval by the Historic Preservation Commission.

Sec. 34.01(Y)—General Provisions; Enforcement and Remedies: Prohibits (1) failing to comply with the certificate of appropriateness issued by the Historic Preservation Commission, or (2) commencing work authorized by any certificate that has expired until a new certificate has been secured.

TITLE V: PUBLIC WORKS

Chapter 51: Garbage, Refuse and Rubbish

Sec. 51.02—Refuse Required to be Deposited in Approved Containers: Prohibits throwing, placing or depositing any garbage or refuse of any kind on any public or private property except in an approved container or as otherwise provided by this chapter.

Sec. 51.03—Burning or Burying Garbage and Refuse Regulated: Prohibits (1) burning or setting fire to or burying any garbage for the purpose of disposal, or (2) burning any refuse for the purpose of disposal unless written permission has been obtained and granted by the fire chief.

Sec. 51.04—Accumulation of Garbage and Refuse Prohibited: Prohibits any person to permit garbage or refuse to accumulate or remain on any premises longer than is reasonably necessary to remove and deposit the same in approved containers as required by this section.

Sec. 51.05—Containers Required: Requires (1) every building or premises where garbage and refuse exist to be provided containers to deposit all garbage and refuse at the building or premise, and (2) to keep all containers in a reasonably clean condition.

Sec. 51.06—Pre-Collection Practices: Requires all garbage and refuse to be wrapped in a paper or other like material and have the liquid drained therefrom before it is placed in the container for collection. Prohibits placing any ashes and cinder into the container until they are cold.

Sec. 51.07—Collection Schedule: Requires every owner, tenant, lessee or occupant of the premises to be responsible for placing the container on the curb in a place readily accessible for collection. Requires every

container to be located on the curb no earlier than 4:00 p.m. on the day prior to pick up and must be removed from the street location no later than 4:00 p.m. on the day following pick up.

Sec. 51.08—Special or Bulk Collections Regulated: Prohibits any bulk trash, shrubbery cuttings, leaves or other refuse to be collected without a special charge unless the refuse can be placed in regular trash cans. This provision does not apply to the collection of tree limbs of less than six feet in length and four inches in diameter when properly stacked at roadside, or the collection of leaves piled at roadside in accordance with the schedule maintained at the Town Clerk's office. Any property owner desiring special bulk collections may request from the Town which a special charge will be issued. Prohibits collections made from vacant lots or any large rocks, tree trunks, tree stumps, tree limbs or other heavy objects. Also prohibits any waste building materials or lot clearings to be collected from the house or other structures under construction or recently completed.

Sec. 51.09—Removal of Dead Animals: Requires any dead animals to be removed from any premises upon notice given to the Town Clerk of the existence of the dead animals.

Sec. 51.10—Business, Commercial, Multi-Family Group Housing Developments: Mandates that (1) the solid waste collection at small commercial businesses to be limited to one container per collection, and any business exceeding these limitations must obtain a sperate service and be responsible for those costs; and (2) the solid waste collection for multi-family group housing development to be limited to those of seven units or less, and the developments that exceed these limitation must obtain a sperate service and responsible for the costs associated with the collection thereof.

Sec. 51.11—Hazardous Waste: Prohibits any hazardous solid or liquid waste to be put in a container or any receptacle for collection.

TITLE IV: GENERAL REGULATIONS

Chapter 90: Animals

Sec. 90.01—Keeping of Dogs: Prohibits within the Town (1) operating a dog kennel or keeping of any dog, except as a pet and only when the dogs are kept in strict compliance with this section; (2) inhumanly beating, underfeeding or abandoning any dog; (3) permitting any dog to run at large; (4) harboring or keeping any dog which disturbs the peace by loud noises; or (5) causing or allowing any dog to become unclean, unwholesome or dangerous to the public health. Authorizes the Police Department to kill a dangerous dog when necessary for the protection of any person or property. Requires (1) all dog pens, houses, or places where dogs are kept to be cleaned daily and kept in condition free of trash, animal feces, or other matters or things constituting as a nuisance to the public health of the community; and (2) only two dogs per family within the Town.

Chapter 91: Parades and the Like

Sec. 91.02—Permits Requisite to Starting, Forming or Participating in a Parade: Prohibits engaging in, participating in, forming or starting any parade unless a parade permit has been obtained and provided by the Town pursuant to this chapter of the Code.

Sec. 91.11—Obstructing or Driving Through Parade; Parking Along Parade Route: Prohibits (1) unreasonably hampering, obstructing or impeding, or interfering with any parade or parade assembly or

with any person, vehicle or animal participating in the parade; or (2) driving between vehicles or persons comprising a parade when the vehicles are in motion and are conspicuously designated as a parade.

Chapter 92: Parks and Recreation

Sec. 92.01—Hours of Parks, Playgrounds and Recreation Centers: Prohibits going upon the premises of any Town parks, playgrounds or recreation centers during the times when they are closed to the public as determined by the Board of Commissioners.

Sec. 92.03—District Park Rules: The following is strictly prohibited in Town Parks: motorized vehicles beyond the parking lot; alcohol, drugs or weapons; pets in ball field or playground area; hitting golf balls; hunting or fishing; posting signs for advertisement except by permit; loud or amplified sound, music, noise or voice except by permit; profanity or lewd behavior; swimming, wading, or boating in the pond; walking on ice when pond is frozen; graffiti or defacing property; open flame, fireworks, or gambling; disorderly conduct or threatening language; airplane, flying machine, or other apparatus of aviation without special permit; activity that may be hazardous to persons or property; and interfering with any park or Town employee in the performance of their duties.

Chapter 93: Streets and Sidewalks

Sec. 93.01—Placing Garbage, Refuse and Rubbish in Public Place: Prohibits placing any garbage, refuse or rubbish in any public street, alley or other public owned or controlled place except under the express approval granted by the Town's Maintenance Supervisor.

Sec. 93.19—Unlawful to Deface Number: Prohibits altering, defacing or taking down any number placed on any property in accordance with this chapter, except for repair or replacement of the number.

Chapter 94: General Nuisances

Sec. 94.17—Abandoned Vehicle Unlawful; Removal Authorized: Prohibits the registered owner or person entitled to possession of a vehicle to cause or allow the vehicle to be abandoned, as defined in this chapter of the Code. An "abandoned vehicle" as defined in the Code is one that is left on a public street or highway for longer than 7 days; is left on Town owned property longer than 24 hours; or is left on private property without the consent of the owner for longer than two hours. Upon investigation, the Town Enforcement Officer may order the vehicle to be removed.

Sec. 94.18—Nuisance Vehicle Unlawful; Removal Authorized: Prohibits the registered owner or person entitled to possession of a motor vehicle or for the owner, lessee or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared to be a health and safety hazard and a public nuisance. Upon investigation, the Town Enforcement Officer may order the vehicle to be removed.

Sec. 94.19—Junked Motor Vehicle Regulated; Removal Authorized: Prohibits (1) the registered owner, person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed, or to fail to comply with the locational requirements of this section; or (2) having more than one junked motor vehicle on the premises of public or private property, where a single, permitted junked motor vehicle must strictly comply with the location and concealment requirements of this section. Upon investigation, the Town Enforcement Officer may order

the vehicle to be removed after finding in writing that the aesthetic benefits of removing the vehicle outweigh the burdens imposed on the private property owner.

Sec. 94.20—Removal of Abandoned, Nuisance or Junked Vehicles; Pre-Towing Notice Requirements: Any abandoned, nuisance, or junked vehicle which, upon an investigation by the Town Enforcement Officer, determines that the vehicle must be removed, requires towing of such vehicle only after notice to the registered owner or person entitled to possession of the vehicle. The notice shall state that the vehicle will be removed by the Town on a specified date (no sooner than seven (7) days after the notice is mailed) unless the vehicle is moved by the owner or legal possessor prior to that time. After notice is given, if the registered owner or person entitled to possession does not remove the vehicle but instead chooses to appeal the determination that the vehicle is abandoned, a nuisance vehicle, or junked motor vehicle, the appeal must be made to the Board of Commissioner in writing, heard at the next regularly scheduled meeting, and the vehicle shall; be stayed until the appeal is heard and decided.

Sec. 94.27—Protection Against Criminal or Civil Liability: Prohibits any person to be held to answer in any civil or criminal action to any owner of other person legally entitled to the possession of an abandoned, nuisance or junked motor vehicle, for disposing of the vehicle as provided in this chapter.

Sec. 92.29—Unlawful Removal of Impounded Vehicle: Prohibits removing or attempting to remove from any storage facility designated by the Town any vehicle which has been impounded pursuant to the provisions of the Code, unless and until all towing and impoundment fees which are due, or bond in lieu of fees, have been paid.

Chapter 95: Noise and Sound Levels

Sec. 95.02—Noise Disturbance Unlawful: Prohibits making or causing to be made a noise disturbance within the Town. A “noise disturbance” is defined under the Town Code as follows: (1) any sound registered on a decibel meter from any source not exempted under the Code, when measured anywhere off of the property of the sound source within 25 feet of the nearest residence, which is in excess of the dB(A) established for the time period and zoning district listed and set forth in the Code; (2) owning, keeping, or harboring any animal that continuously for 30 minutes or more creates a sound which is plainly audible across any property boundary line; (3) any sound resulting from the erecting, constructing, demolishing, altering or repairing any structure, or permitting the operation of any tools or equipment used in connection with the construction work in a manner to cause a sound plainly audible across any property line between the hours of 10:00 p.m. and 7:00 a.m.; (4) any sound plainly audible from across any property line from the repairing, rebuilding, or testing any motor vehicle, motorcycle, or motorboat between the hours of 10:00 p.m. and 7:00 a.m.; (5) operating any power tool, lawnmower, snow blower or other similar equipment in residential areas between the hours of 10:00 p.m. and 7:00 a.m., in such a manner as to cause a sound plainly audible across any property line; and (6) operating, playing, permitting, or causing to be operated or played any sound amplification or producing device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to cause a sound plainly audible from across any property lines.

Sec. 95.03—Allowance of Noise Disturbance; Responsibility for Abatement: Prohibits any property owner, tenant, or other person with control, occupancy or possession of residential property (1) to allow or permit a person or group of persons to create a noise disturbance as defined in this chapter on the property; or (2) to fail to abate a noise disturbance that occurs on that property.

Sec. 95.04—Exemptions: The following are explicitly exempt as “noise disturbances” for purposes of this chapter: (1) sound from law enforcement motor vehicles and other emergency motor vehicles including, but not limited to, snow clearing equipment; (2) sound from the Town, state, county, or Federal Government vehicles engaged in preparing or remedying a potentially hazardous situation; or (3) sound that a person is making or causing to be made when the person has received and maintains a valid license or permit which specifically allows the sound from any Town department.

TITLE XI: BUSINESS REGULATIONS

Chapter 110: General Business Licensing

Sec. 110.05—Application; False Statement Thereon: Requires every person desiring to obtain a license for the privilege of engaging in a business within the Town to submit a written application to the tax collector with the following information: (1) name and nature of the business for which the license is sought; (2) the address where the business is conducted; (3) the name and address of the person filing the application, and his or her relationship to the business; (4) the gross receipts of the business for the most recently completed tax year, if applicable; and (5) any other information which the Tax Collector determines is necessary. Prohibits willfully making a false statement on a license application which shall be guilty of a misdemeanor.

Sec. 110.09—Display of License: Requires each person who is issued a license under this chapter to post the license in a conspicuous place in his or her regular place of business. In the event there is no regular place of business, the license must be kept where it may be inspected at all appropriate times by the Tax Collector. If a machine or other item of personal property is licensed, the license must be affixed to the machine or item.

Sec. 110.14—Unlawful to Conduct Business Without a License: Prohibits any person to engage in a business within the Town upon which a privilege license tax is imposed by this chapter, without having paid the license tax specified for the business as set forth in this chapter of the Code.

Chapter 111: Pawnbrokers

Sec. 111.01—License and Bond Required: Prohibits any person to do business as a pawnbroker as defined in G.S. § 91A-3(2) in the Town without first having obtained a license thereof and paying the license tax annually imposed. In addition, every like person, before a license is issued to carry on business, is required to enter into a \$50,000 bond to the Town conditioned for the observance of the provisions of this chapter at any time during the continuance of the license.

Sec. 111.02—Records: Requires all pawnbrokers in the Town to (1) keep and preserve a daily record detailing a complete list of every article taken in pawn by them or bought by them and give a full description of the article, and showing from whom the articles were received and to whom sold or disposed of; (2) at all times during normal business hours and all other reasonable times, the records to be open for the examination and inspection by the Police; and (3) furnish to the Chief of Police, by 11:00 a.m. each day, a true and accurate copy of the record herein required to be kept, covering his or her transactions for the preceding 48 hours.

Sec. 111.03—Inspection of Stock: Requires every pawnbroker to have his or her goods so arranged in stock to enable the Town law enforcement officer as prescribed in the previous section, to readily inspect the same.

Sec. 111.04—Regulations Concerning Minors: Prohibits any pawnbroker to knowingly buy or receive in pawn any article from a minor, without the written consent of the minor's parent or legal guardian. The written consent must be carefully preserved as evidence of his or her right to buy or receive the pawn article from the minor and the written consent shall be subject to inspection by the police or other Town law enforcement upon demand.

Sec. 111.05—Loans on Separate Parts of Articles: Prohibits any pawnbroker to make any loans on the separate or divided part of any article.

Sec. 111.06—Article to be Kept for 60 Days: Prohibits any articles received in pawn or bought by a pawnbroker, within the Town, to be disposed of or removed from his or her place of business within 60 days from the time the article was received.

Sec. 111.07—Compliance with Chapter: Any licensed pawnbroker or person in control of any pawnshop who violates or refuses to comply with any provisions of this chapter shall be guilty of a misdemeanor and, in addition thereto, the license issued shall be declared forfeited by the Board of Commissioners.

Chapter 112: Game Rooms

Sec. 112.03—License Required: Requires every operator of a game room or electronic gaming establishment to pay a privilege license tax in accordance with section 110 of the Code and apply for and obtain a license (as well as paying the application fee) from the Town to operate a game room or electronic gaming establishment. Prohibits any person to operate a game room or electronic gaming establishment within the Town without obtaining a license as required and set forth in this section.

Sec. 112.05—Prohibited Conduct: Prohibits any licensees under this chapter or their employees to (1) suffer or permit any gambling on the licensed premises at any time, (2) suffer or permit the sale or use of any racing, football or other parlay cards or gambling boards or devices, (3) suffer or permit the licensed premises to become disorderly or permit any profane, obscene or indecent language thereof, or (4) employ in carrying on the business any person who has been convicted of unlawfully selling alcoholic beverage or narcotic drugs.

Sec. 112.06—Rules for Operation of Game Rooms and Electronic Gaming Establishments: Requires all game rooms and electronic gaming establishments within the Town to (1) be closed from 11 p.m. until 7:00 a.m., Monday through Thursday, be closed at 12:00 midnight on Fridays and Saturdays, and only open on Sunday's between 1:00 p.m. and 11:00 p.m.; (2) be operated on the ground floor of a building only, and plate glass windows must be in those parts of the building facing any street so that a clear view from inside may be seen from the street; and (3) have an adult 21 years of age or older managing the business on the premises during the hours of operation at all times. Prohibits (1) playing any games in the establishments during the times when the game rooms and electronic gaming operation are required to be closed under this section; (2) any screens, curtains, blinds, partitions or other obstructions to be placed between the entrance of the room where games are played that blocks a clear view of the interior from the street; or (3) allowing any loud noises to emanate beyond the licensed premises.

Chapter 114: Precious Metal Businesses

Sec. 114.03—Permits: Prohibits (1) any person to engage as a dealer in the business of purchasing precious metals, either as a separate business or in connection with other business operation, without first applying for and obtaining a valid permit for the business from the local law enforcement agency; (2) any business engaging in purchasing metals to conduct the business in a place other than that designated in the permit, or in a mobile home, trailer, camper, or other vehicle or structure not permanently affixed to the ground or in any room customarily used for lodging in any hotel, motel, or tourist home; or (3) having any person other than the dealer named on the permit and that dealers employees to engage in the business of purchasing metals under the authority of the permit issued pursuant to this section.

Sec. 114.04—Perjury; Punishment: Prohibits willfully committing perjury in any application for a permit or exemption filed pursuant to this chapter.

Sec. 114.06—Records to be Kept: Requires every dealer to whom a permit has been issued pursuant to this chapter and G.S. § 66-165 to maintain consecutively numbered records of each precious metal's transaction. The records must be kept open at all reasonable times to inspection on the premises by law enforcement agencies, and an individual record must be retained for at least two years after a transaction. The files of local law enforcement agencies that contain copies of such records shall not be subject to inspection and examination as authorized by G.S. § 132-6. Accordingly, prohibits any public official or employee to knowingly and willfully permit any person to have access to or custody or possession of any portion of such files, unless the person is one specifically authorized by the local law enforcement agency to have access for purposes of law enforcement investigation or civil or criminal proceedings.

Sec. 114.07—Items not to be Modified: Prohibits any item in a dealer purchase to be sold, traded, or otherwise disposed of or changed in form, or any item to be removed from the licensed premises for a period of seven days from the date the transaction was reported in accordance with G.S. §§ 66-169 and 66-170.

Sec. 114.08—Purchasing from Juvenile: Prohibits any dealer or employee or agent thereof to purchase any article made, in whole or in part, of precious metal from any juvenile under 18 years old.

Sec. 114.09—Portable Smelters Prohibited: Prohibits any person to possess or operate a smelter in any mobile home, trailer, camper, or other vehicle or structure not permanently affixed to the ground, for the purpose of refining precious metals.

Sec. 114.99—Penalty: Any dealer who violates the provisions of this chapter shall be guilty of a Class 2 misdemeanor.

Peddler and Itinerant Vendor Ordinance

Sec. 1.3—License Required: Prohibits any peddler or itinerant vendor to peddle any articles of merchandise or engage in business within the Town until the person has secured a valid license from the Town pursuant to this ordinance, which license must be kept and produced to any official of the Town upon demand.

Sec. 1.4—Exemptions: the provisions of this ordinance does not apply to the following: (1) persons selling only fruits, vegetables, berries, eggs, or any farm produce; (2) persons selling only trees used for the celebration of the Christmas season; or (3) non-profit organizations with local affiliations.

Sec. 1.8—Exhibiting and Transfer of License: Requires any license issued under this Ordinance to be posted conspicuously at the place of business or vehicle used by the licensee. Prohibits transferring any license issued under this ordinance to any other person, firm, corporation, or location.

Sec. 1.10—General Regulations: Prohibits any licensed peddler or itinerant vendor to (1) be licensed for a location in a residential zoning district; (2) to locate his or her vehicle, temporary stand, or merchandise within 20 feet of any public right-of-way and/or private driveway; (3) have a sign over maximum length of 25 feet and no sign is permitted other than what is contained in the vehicle; (4) have vehicle or temporary stand to be located closer than 20 feet from any building or structure or closer than 50 feet from any flammable combustible liquid or gas storage and dispensing structures; (5) sell or vend from his or her vehicle within the required distances set forth and specified in this section of the ordinance; (6) conduct business so as to violate the traffic and sidewalk ordinances of the Town; or (6) obstruct or cause to be obstructed the passage of any public sidewalk, street, alley, or other public place, by causing people to congregate at or near the place where the goods or items are being sold or offered for sale. Requires all itinerant vendors to: place at least one 30 gallon garbage receptacle upon the site for customer use; clean all debris, trash, and litter from the vendor sites at the conclusion of daily business activities; to be equipped with a working fire extinguisher; and operate from a location with a hard paved surface.

TITLE XIII: GENERAL OFFENSES

Chapter 130: Offenses Against Persons

Sec. 130.01—Police Line Regulation: Prohibits crossing any duly established and marked police line within the Town without express permission from a local law enforcement officer at that location.

Chapter 131: Offenses Against Public Decency

Sec. 131.01—Alcohol Consumption: Prohibits displaying or consuming any beer, wine, fortified wine, malt liquor or liquor in or on any town park, public street, right-of-way, or sidewalk within the Town or on any property owned by the Town located inside or outside of the corporate limits.

Sec. 131.02—Public Decency Generally: Prohibits intentionally urinating or defecating in or around any public place, including but not limited to sidewalks, alleyways, streets, rights-of-way or public property inside the corporate limits of the Town.

Sec. 131.03—Loitering: Prohibits remaining on foot or in a motor vehicle or wandering about on foot or in a motor vehicle in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of the State Controlled Substances Act pursuant to Chapter 90, Article 5 of the General Statutes. Those circumstances are defined to include: (1) repeatedly beckoning to, stopping, or attempting to stop people passing by, or repeatedly attempting to engage people passing by in conversation; (2) repeatedly stopping or attempting to stop motor vehicles; (3) repeatedly interfering with the free passage of other persons; (4) the person is known unlawful drug user, possessor, or seller; (5) the person behaves in a manner so as to raise reasonable suspicion that he or she is about to engage in or is engaging in an unlawful drug related activity or other unlawful activity; (6) the person repeatedly passes to or receives from those passing by, whether on foot or in a vehicle, any money or other objects; (7) the person takes flight upon the approach or appearance of a police officer; or (8) any vehicle involved is registered to a known unlawful drug user, possessor or seller, or is known to be or have been involved in drug-related activities.

TITLE XV: LAND USAGE

Chapter 151: Flood Damage Prevention

Sec. 151.03—Permit, Compliance and Other General Provisions: Requires a floodplain development permit to be issued in accordance with the provision of this chapter prior to the commencement of any development activities within special flood hazard areas. Prohibits any structure or land to be located, extended, converted, altered or developed in any way without full compliance with the terms of this chapter and other applicable ordinances.

Sec. 151.17(p)—Duties and Responsibilities of the Floodplain Administrator; Issue Stop Work Orders as Required: If a building is being constructed, reconstructed, altered or repaired in violation of this Chapter, the Floodplain administrator may order the work to be immediately stopped. The stop work order must be in writing and directed to the person doing or in charge of the work, and must state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed. Any person who violates said stop work order issued by the Floodplain Administrator will be guilty of a misdemeanor.

Sec. 151.18—Corrective Procedures: When the Floodplain Administrator gives notice to the owner of a building or property that he or she is in violation of this Chapter and fails to comply with an order to take corrective action for which no appeal has been made, or fails to comply with an order of the governing body following an appeal, the owner shall be guilty of a misdemeanor.

Sec. 151.99—Penalty: Violation of the provisions of this chapter or failure to comply with any of its requirements, including violation of conditions and safeguards established in connection with grants or variance or special exceptions, shall constitute a misdemeanor.

Chapter 152: Soil Erosion and Sediment

Sec. 152.12—Permits: Prohibits any person to undertake any land disturbing activity subject to this chapter without first obtaining a permit and paying the applicable fee thereof from the County Planning Board. However, no permit is required for the following land disturbing activities that are undertaken (1) on agricultural land for the production of plants and animals, (2) on forest land for the production of timber, (3) by a person pursuant to the Mining Act under G.S. §§ 74-46 through 74-68, (4) by the State pursuant to statute which gives the State exclusive regulatory jurisdiction, (5) for the purpose of fighting fires, (6) for stock piling of raw processed sand, stone or gravel in material processing plants and storage yards, and (7) on land that does not exceed one acre of surface area.

Sec. 152.15—Compliance with Plan Requirements: Prohibits any person who engages in land disturbing activities to fail to file a plan in accordance with this chapter, or who conducts a land disturbing activity except in accordance with provisions of a plan.

Sec. 152.16—Inspections and Investigations: Requires agents and officials of the governing body to make periodic inspections of land disturbing activities that have been issued permits in order to determine whether these activities are being conducted according to the plan regarding controlling erosion and sediment resulting from the land disturbing activities. If after an inspection, it is determined that a person engaged in land disturbing activities has failed to comply with the approved plan, notice of compliance

will be served on the person and the time period prescribed to come into compliance. Prohibits any person engaged in land disturbing activities to fail to comply with the approved plan after receiving notice from the governing body within the time specified. Also prohibits refusing entry or access to any authorized representative or agent of the governing body who requests entry for purposes of inspection, or obstructing, hampering or interfering with any representative while in the process of carrying out his or her official duties.

Sec. 152.99—Penalty: Any person who knowingly or willfully violates any provision of this chapter, or rule or order adopted or issued pursuant to this chapter, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion control plan is required, except in accordance with the terms, conditions and provisions of an approved plan, shall be guilty of a misdemeanor.

Ordinance 96: Minimum Housing Ordinance

Sec. 13—Minimum Standards Applicable to Rooming Houses: All minimum standards set forth in this Ordinance are applicable to rooming houses, and every person who operates a rooming house or who occupies or lets another to occupy any rooming house must comply with the minimum standards regulations. Prohibits operating or causing to be operated any rooming house unless the following are established: (1) lavatory facilities in good working condition consisting one toilet, one washbasin, and one bathtub or shower for every six (6) persons residing in the rooming house; (2) access from rooming unit to lavatory facilities without entering another dwelling, rooming unit or non-conditioned area; (3) washbasin and bathtub or shower properly connected and supplied with hot and cold running water; (4) lavatory not to be located in an unfinished basement; (5) walls, floors and ceilings maintained in a sanitary condition; (6) the disposal of all garbage in a prompt and sanitary condition; (7) smoke detectors in every furnace room; and (8) installing a smoke detector in all public hallways within fifteen (15) feet of each rooming unit and the primary source for these detectors must not be taken from the houses electrical current.

Sec. 14—Occupants Responsibilities: Requires every occupant of a dwelling unit or apartment to: (1) keep the part of the apartment or dwelling unit he or she occupies kept in a clean and sanitary condition; (2) keep all required plumbing and other fixtures in a clean and sanitary condition, and exercise reasonable care in the use and operation thereof; (3) be responsible for the extermination of any insects, rodents or other pests when the owner has provided a reasonably insect-proof and adequate rodent-proof building; (4) dispose of all garbage and other refuse in an approved garbage receptacle; (5) not place any material on the premises which causes a fire hazard or otherwise endangers the health or safety of any occupants of such building; (6) not place in storage or on the premises any furniture, auto parts, junk equipment or other material which harbors insects, rodents or other pests; (7) not occupy any dwelling unit unless running water is provided to the required plumbing fixtures; (8) not place within any structure for use therein, any oil, kerosene or gas fired portable heater to be used as the primary source for heating or cooking; (9) not place on the premises for the use thereon, any heating or cooking unit which constitutes a fire hazard, and if the occupant provides the heating or cooking equipment, the occupant shall be responsible for proper installation and maintenance; (10) not cause such damage to the dwelling unit or apartment as to make it unfit for human habitation; and (11) not heat or cook food or permit the heating or cooking of food within his or her rooming unit.

Sec. 15—Enforcement Against Occupant: Upon discovering a violation of Sec. 14, the inspector shall notify the occupant of the violation and order the violations to be corrected. If the occupant fails to make such

corrections within the time set forth in this Ordinance, the inspector may pursue any civil or criminal action he or she deems necessary in order to effectuate the purpose of this Ordinance.

Sec. 16—Owner’s Responsibilities: Any owner remains liable for violations of their duties imposed upon him or her by this Ordinance, even though (1) an obligation is also imposed on the occupant, or (2) the owner has, by agreement, imposed on the occupant the duty of furnishing the required equipment or of complying with this Ordinance.

Sec. 17—Owner’s Responsibility for Safety of Occupant(s): In order to protect the health and safety of occupants in a building, the owner must, within forty-eight (48) hours after being notified in writing: (1) repair any broken, burst, frozen or inoperable plumbing pipe or fixtures; (2) repair any exposed or unsafe wiring; (3) repair or replace any unsafe and/or dangerous cooking or heating equipment provided by the owner; or (4) repair or replace fuel storage tanks and/or supply lines provided by the owner which are leaking, improperly supported or dangerous.

Sec. 21—Procedure for Enforcement: If the owner of any building which has been found to violate this Ordinance because it is unfit for human habitation fails to comply with an order of the inspector issued pursuant to this Ordinance, the inspector must take one or more of the following actions: (1) secure the issuance of a warrant charging such owner with violation of this Article, (2) vacate or close said building, or (3) cause such building to be repaired, altered, improved or demolished.

Sec. 22—Certificate of Compliance: Prohibits any owner or the agent of any owner to rent or offer for rent as a dwelling any vacant structure or part thereof upon which an order to repair, alter or improve, or to vacate and close has been issued without the owner or agent first filing an application for an securing a Certificate of Compliance from the Inspector. Any owner or rental agent so violating this section by leasing a dwelling or dwelling unit before obtaining a Certificate of Compliance shall be subject to immediate prosecution and the inspector shall obtain a warrant for the arrest of anyone in violation of the Certificate of Compliance provisions.

Sec. 27—Other Unlawful Actions: Prohibits: (1) removing or permitting the removal of any complaint, notice or order posted in accordance with the provisions of this Ordinance; (2) receiving rentals, offering for rent or occupying a building for any purpose when the inspector finds that said building is unfit for human habitation, and has notified the owner and the time limit set by the inspector for the correction of defects and vacating the same has expired; (3) damaging, mutilating, removing or permitting or causing to be damaged, mutilated or removed any permanent fixture from any dwelling unit; or (4) any owner of any building upon whom a notice, complaint or order has been served, to sell, transfer mortgage, lease or otherwise dispose of said building until the provisions of the notice, complaint or order have been complied with, or such owner furnished the transferee, lessee, or mortgagee a true copy of the notice, complaint, or order issued by the inspector and concurrently gives written notice to the inspector of the intent to transfer, lease or mortgage said building.

Sec. 31—Violations, Penalty: Prohibits any owner of any dwelling or dwelling unit (1) to fail, neglect or refuse to repair, alter or improve the same, or fail to vacate and close and remove or demolish the same, upon an order of the inspector duly made and served pursuant to this Ordinance; or (2) with respect to an order for a violation of the minimum housing standards, to occupy or permit the occupancy of the same after the time prescribed in the order for its repair, alteration or improvement or vacancy.

Ordinance 97: Non-Residential Building Maintenance Standards

Sec. 7—Duties and Responsibilities of the Owner: Requires the owner to be responsible for maintaining all non-residential buildings and premises in accordance with all standards in this Ordinance for non-residential buildings and premises fitness.

Sec. 8—Duties and Responsibilities of the Occupant: Requires every occupant to be responsible for the following: (1) keeping the premises (under the control of the occupant) in a safe, clean and sanitary condition and must refrain from performing any acts which would render any parts of the building or premises unsafe or unsanitary condition; (2) eliminating infestation in and on the premises, subject to his or her control; (3) maintaining all supplied plumbing fixtures in a safe and sanitary conditions and to exercise reasonable care in the proper use and operation of these fixtures; (4) storing all garbage and solid waste in trash receptacles in accordance with the Town Code; (5) repairing any damage to public sidewalks and/or curb and gutter located in the public right-of-way by vehicles making deliveries to the non-residential building or premises; and (6) providing notice to the owner when the occupant becomes aware of any known defect of any facility, utility or equipment required to be furnished and the same is found to be defective or inoperable.

Sec. 9—Relationship of Duties and Responsibilities to Occupancy: Requires (1) all unoccupied or vacant structures or buildings to be secured by their owners as to prevent the entry of unauthorized person or the formation of nuisance conditions such as infestation; and (2) all Ordinance provisions that apply to the exterior or exterior components of a structure or building premises must be complied with regardless of whether the structure or building premises is occupied or vacant.

Sec. 13—Unlawful to own unsafe Buildings and Structures: Prohibits any firm, person or corporation to own a building or structure in the Town which is in such a defective or hazardous condition that it is unsafe and dangerous to life. Requires that whenever the Town Commissioners has determined that an unsafe and dangerous buildings or structures exists and is detrimental to the health, safety and welfare of the Town Citizens, the unsafe and dangerous buildings or structures must be condemned. The owner is also required to immediately remedy the unsafe, dangerous or unlawful conditions or demolish such buildings or structures.

Sec. 14—Buildings and Premises Not Declared Unsafe But Which Are Not in Compliance With All Standards: Requires in situations where the Inspector determines that a non-residential building and/or premises fails to fully comply with one or more, but less than five, of the standards of non-residential buildings and premises fitness as set forth in this Ordinance, such building and/or premises must not be found to be unsafe and not subject to the procedures and remedies provided in the Ordinance. However, after notice is given by the Inspector, each such failure of non-compliance shall constitute a violation of the terms of this Ordinance and shall subject the violator to the civil and/or criminal penalties set forth in this Ordinance.

Sec. 14A—Premises to be Kept in a Clean and Orderly Fashion: Prohibits using outdoor storage areas and yards ancillary to the principle use of the lot for the storage of noxious and hazardous materials, unless specifically permitted by the zoning ordinance. Requires all outdoor storage areas to be maintained as to: (1) prevent the spill over of stored materials on abutting land or public right-of-way's, (2) preserve the safety of pedestrians on adjoining sidewalks, (3) prevent fire hazards, (4) prevent the threat of breeding places for rats and vermin, (5) prevent the possible uses of such yards hiding places for criminal activity,

and (6) eliminate the attraction of materials stored within the areas to playing children. Also requires the storage areas to be fenced with a strong, secure, and visually impenetrable fence of suitable materials of at least six (6) feet in height, or other buffer requirements permitted by the coning ordinance; and building facades to be kept free of decay, mold, mildew and rot.

Sec. 16—Removal of Condemnation Notice Unlawful: Prohibits removing a condemned notice affixed to a building or structure after the Inspector determines that such building or structure is especially dangerous to life and unsafe pursuant to this Ordinance.

Sec. 21—Failure to Comply with Order of Inspector: Prohibits any owner of a building or structure to fail to comply with an order by the Inspector pursuant to this Ordinance from which no appeal has been taken or to fail to comply with an order of the Town Commissioner following an appeal, unless the owner within ten (10) days following issuance of the order by the Town Commissioner appeals from that order as provided by law.

Sec. 27—Defects in Buildings to be Corrected: When an Inspector finds and gives notice to the owner or occupant of any defect in a non-residential building, the building has not be construed in accordance with local or State laws, or that a building because of its condition is dangerous or contains hazardous conditions, requires the owner or occupant to immediately remedy the defects, hazardous condition or violation of the law in the property he or she owns. Failure to do so is a violation of this Ordinance.

Sec. 28—Violations: Prohibits the owner of any building or premises, upon an order of the Inspector duly made and served as provided in this Ordinance, to (1) fail, neglect or refuse to repair, alter or improve the same, or to vacates and close or vacate and remove or demolish the same; or (2) occupy or permit the occupancy of the same after the time prescribed in such order for its repair, alteration or improvements or its vacating and closing, or vacation and removal or demolition.

Sec. 29—Penalties for Violations; Alternative Remedies: Violation of this Ordinance shall constitute a misdemeanor punishable by fine or imprisonment as provided by G.S. § 14-4.

Zoning Ordinance

Article III- Administration

Sec. 5—Building and Zoning Permit Required: Prohibits any building, sign or other structure to be erected, moved, extended or enlarged, or structurally altered, or excavating or filling of any lot for the construction of any building until the Zoning Enforcement Officer has issued a building and zoning permit for the work.

Sec. 7—Certificate of Occupancy Required: Mandates a certificate of occupancy by the Zoning Enforcement Officer in advance of the following: (1) the occupancy or use of a building erected, altered, or moved; (2) a change of use of any building or land; or (3) each on-conforming use or structure created by passage of and subsequent amendments to this Ordinance. A certificate of occupancy will not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance.

Sec. 9—Construction and Use to be as Provided in Applications, Plans, Permits, and Certificates of Zoning Compliance: Prohibits any other use, arrangement or construction not authorized by the Town for building permits or certificate of compliance issued on the basis of plans and application approved by the Project

Review Committee or the Zoning Enforcement Officer. Any use, arrangement or construction at variance with that authorized will be a violation of this Ordinance.

Sec. 11—Liability: Mandates that the owner, tenant, or occupant of any land or structure, or part thereof an any architect, engineer, builder, contractor, or agent or other person who participates in, assists, directs, creates or maintains any situation that is contrary to the requirements of this Ordinance will be responsible for the violation and subject to the penalties and remedies provided therein.

Sec. 12—Penalties: Any person who violates the provisions of this Ordinance shall, upon conviction, be guilty of a misdemeanor.

Article VI- Application of Regulations

Sec. 1—Zoning Affects Every Building and Use: Prohibits (1) any building or land to be used and no building or part thereof to be erected, moved or altered except in conformity with the regulations specified for the district which it is located; or (2) any part of a yard or other open space required for any building for the purpose of complying with the provisions of this Ordinance to be included as part of a yard or other open space similarly required for another building.

Sec. 2—Reduction of Lot and Yard Areas Prohibited: Prohibits any yard of lot existing at the time of passage of this Ordinance to be reduced in size or area below the minimum ordinance requirements, except for street widening. Requires all yards or lots created after the effective date of the Ordinance to meet at least the minimum requirements established by this Ordinance.

Sec. 3—Relationship of Building to Lot: Requires every building erected, moved, or structurally altered to be located on a lot which conforms to the regulations specified by the Ordinance, and in no case shall there be more than one principle building or structure and its customary accessory buildings or structures on any lot. This provision shall not apply in the case of a planned unit development or temporary, special or conditional use permit.

Sec. 4—Street Access: Prohibits any building to be erected on a lot which does not have access to a paved street whether public or privately maintained. Requires all private street to be constructed and maintained in accordance with the standards and specification set forth by the State Department of Transportation minimum construction standards.

Sec. 5—Uses Prohibited: If a use or class of uses is not specifically indicated as being permitted in a district either as a right or as a conditional use, then such use or class of uses is prohibited.

Sec. 6—Obstructions to Vision at Street Intersections: Requires at any corner lot in residential and professional districts to be free of any obstructions and must be clear of the vision areas by structures, grade or foliage other than power or utility poles.

Sec. 7—Location of Accessory and Temporary Buildings on Residential Lots: Prohibits on any residential lot, accessory buildings (1) to be located in any required front or side yard, (2) to cover more than 20% of any required rear yard, and (3) to be less than (5) feet from and other building on the same lot and less than 20 feet from any buildings used for human habitation on adjoining lots. Requires (1) any part of the building, including the footings and roof overhang, to be a minimum of ten (10) feet from any lot line; and (2) any accessory or temporary buildings or structures designed or used for human habitation as

permitted by this Ordinance to be located closer to the principle building than 30 feet and must meet the side yard requirements for the district in which the buildings or structures are located.

Sec. 8—Lot of Record; Date and Permitted Use: Requires (1) in any district which residences are permitted, where a lot has an area of width of less than the required area or width and was a “lot of record” on or before the effective date of this Ordinance, such lot may be occupied by a single-family dwelling, provided that the minimum front, rear and side yard requirements for the district in which it is located have been met; or (2) in all other districts where a lot has an area or width less than the required area or width and was a “lot of record” on or before the effective date of this Ordinance, such lots may be occupied by a permitted use; provided that all other requirements of the district are met. These provisions do not apply to any lot to which the provisions of Article VI, Section 9 apply.

Sec. 9—Adjoining and Vacant Lots: When two or more adjoining and vacant “lots of record” are in single ownership at any time after the effective date of this Ordinance, and such lots individually have less area or width than the minimum requirements of the district in which such lots are located, such lots must be considered as a single lot which meets the minimum requirements of this Ordinance for the district in which said lots are located.

Sec. 10—Side Yards on Corner Lots: Requires, in all residential districts, that the minimum width of the side yard along an intersection of streets to be at least twenty (20) feet and that accessory buildings in the rear yard to comply with the same side yard requirements.

Sec. 11—Front Yard Setbacks: Requires that all measurements for front yard setbacks to be made from the pavement edge of the street or right-of-way. The front yard requirements do not apply to any lot where the front yard coverage on developed lots located wholly or in part within 100 feet to each side of such lot and located within the same block and zoning district and fronting on the same street as such lot is less than the minimum required front yard. In such cases, the front yard on such lot may be less than the required front yard, but not less than the average of the existing front yards on the developed lots, provided that the front yard on such lot must not be less than one-half (1/2) of the required front yard.

Sec. 13—Exceptions to Height Limits: Permits penthouses or roof structures for the housing of elevators, stairways, tanks, ventilating fans or similar equipment required to operate or maintain a building, skylights, towers, steeples, flagpoles, chimneys, wireless masts, water tanks, silos or similar structures to be erected above the height limits specified in the Ordinance, so long as approved by the Project Review Committee who determines that these structures do not pose health, safety, or welfare risks to surrounding property. Prohibits any penthouse or roof structures or any space above the height limit to be allowed for floor space.

Sec. 17—Required Open Space Not Used for Another Building: Prohibits any yard, other open space, or off-street parking or loading space required for any building, structure, or other use to be considered to be a part of a required yard, open space, off-street parking or loading space for any other buildings, structures or use except as provided in this Ordinance.

Article VII- Development Requirements

Sec. 1—Intent: Requires any new construction projects in any zoning district requiring a building permit (except single-family residential construction or residential accessory construction) to meet the applicable development standards provided in this Ordinance to ensure compatibility with the surrounding land

uses, provide for attractive and well planned projects, and to promote the public health, safety, and welfare of the Town. All major construction projects must be approved, prior to the start of the construction by a Project Review Committee. If the Committee deems it impractical for a developer to comply with the portions of this Article, allows the Committee to have the authority to modify or elect not to apply portions of this Article, provided that the modification or deletion of a requirement in the ordinance does not constitute a variance. Require a site plan, once approved, to be resubmitted to the Town pursuant to this Ordinance if construction has not commenced within one (1) year of approval. For the purpose of this section, construction is deemed to have commenced if footers have been poured and approved.

Sec. 2—Applicability: Prohibits any land or structure to be used or occupied, or excavating, removing of soil, clearing or placing of fill to take place on land contemplated for development, or structural alteration of a building to be constructed except in compliance and in accordance with a building or zoning compliance permit approved by the Town. Requires renovation or remodeling of a building meeting or exceeding one-half (1/2) its current assessed value, not including land, to comply with the design standards outlined within this Ordinance.

Sec. 3—General Site Arrangement: Requires structures to be placed and arranged so as to not adversely affect adjacent property owners. For the purpose of this section, adverse effects include, but is not limited to the creation of hazards, nuisances, danger or inconvenience, the unreasonable loss of light and air or solar access, or unreasonable loss of privacy.

Sec. 8—Electronic Gaming Establishments: The following standards must be met for approval of any business engaging in electronic gaming as a special use in the Central Business, Highway Business, or Industrial zoning districts: (1) must be closed from 11:00 pm until 7:00 am, Monday through Thursday, must be closed at 12:00 midnights on Fridays and Saturdays, and may be open between 1:00 pm and 11:00 pm on Sundays; (2) the maximum number of machines/terminals/computers is 8 for each electronic gaming establishment; (3) must provide for the minimum paved parking requirements as set forth in the Ordinance; (4) all applicable permits must be issued to the applicant prior to the issuance of a business license by the Town; (5) the electronic gaming establishment must be a minimum of 500 feet from any residence or dwelling unit, 1,000 feet from other electronic gaming establishment or any adult or sexually orientated business, and 1,000 feet from houses of worship, daycare centers, libraries, public parks, recreation areas, or motion picture establishments where movies are shown to the general public on a regular basis; and (6) a certificate and straight line drawing by a registered land surveyor depicting the property line and structures complies with this section.

Article VIII- Sign Regulations

Sec. 3—Signs Prohibited in All Zoning Districts: Any of the following signs are strictly prohibited in all zoning districts: (1) signs not included under the types of signs specifically permitted in a zoning district; (2) wind activated sign, except as permitted under this article; (3) portable sign, except as permitted under this article; (4) sign which displays flashing, blinking, or intermittent light or light of changing intensity, except as permitted under this article; (5) sign which moves or has parts or sections which move; (6) sign which obstructs or blocks the clear vision area on any corner lots in a residential or professional district; (7) roof sign; (8) bench sign; (9) off premises sign which advertises or publicizes a product, service, or event not available or not occurring on the premises or lot upon which the sign is located; (10) sign painted upon the pavement of any public street or right-of-way except traffic control signs provided by the Town

or other governmental agency; (11) sign which imitates or appears similar in any way to official traffic control signs or devices; sign placed in a public right-of-way except those placed by a governmental agency; (12) temporary sign except as provided by this Article; (13) sign, light, or floodlight erected or maintained in such a manner as to cast direct light onto a public street or right-of-way or adjacent properties; (14) sign which obstructs or blocks another permitted sign; (15) sign containing obscene or offensive words, pictures, or symbols; and (16) any sign which does not comply with the provisions of NC State law.

Sec. 4—Signs Permitted in All Zoning Districts: One of each of the following signs are permitted per zoning lot in addition to other permitted signs: construction, directory, institutional, integral, home occupation, window, real estate, or political signs. In addition to the other aforementioned permitted signs, the following signs are also permitted as needed: emergency or warning signs or lights erected or installed by government agencies, flag signs, holiday decoration, no trespassing/no loitering, keep out signs, traffic directional signs, public signs, and special event signs, local interest signs, temporary signs and banner signs without commercial advertising displayed by religious, charitable, civic, fraternal, political and similar organizations.

Sec. 5—Signs Exempt from Permits and Fees: The following signs are exempt from obtaining a permit of paying the applicable fee associated with obtaining a sign permit: political, construction, real estate, flag, institutional, public, public service, integral, occupant/street number, professional name plates, no trespassing/no loitering, and emergency/warning signs.

Sec. 6—General Sign Regulations: Requires all signs to be erected and/or constructed so that no part of the sign or structure extends into or over a public right-of-way. All signs must comply with the maximum sign area, number of permitted signs, and setbacks requirements for each zoning district and permitted uses.

Sec. 12—Administration: A permit must be obtained as well as paying the applicable fee to the Town for all signs that are erected, attached, installed, modified or relocated within the Town unless specifically exempted by the provisions of Section 5 in this article.

Sec. 13—Enforcement: Requires every sign, including those specifically exempt with respect to permit and fees, to be always maintained in a good structural condition . The Zoning Enforcement Officer has the direct authority to cause the repair, alteration, or removal of any sign which constitutes a hazard to safety, health, or public welfare by reason of inadequate maintenance, dilapidation, or abandonment. The Officer shall also cause to be removed any sign that endangers public safety or any sign for which no permit has been issued except those listed in Section 5. Prohibits any sign owner, after being giving notice by the Zoning Enforcement Officer, to fail to remove a sign which violates the provisions of this article within the 30-day time period allotted for such removal.